

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAY V. YUNIK,

Petitioner,

v.

MICHAEL HARLOW, *et al.*,

Respondents.

Civil Action No. 08-304 Erie

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on November 30, 2008 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on April 21, 2010 [28], recommends that the petition for writ of habeas corpus be dismissed for lack of jurisdiction and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Fayette, where he is incarcerated, and on Respondents. Objections were filed by Petitioner on May 3, 2010 [30]. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 14th day of May, 2010;

IT IS ORDERED that the Petition for Writ of Habeas Corpus be, and hereby is, DISMISSED for lack of jurisdiction. Inasmuch as jurists of reason would not find it debatable whether the instant petition is a second or successive petition over which jurisdiction is lacking, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter dated April 21, 2010 [28] is adopted as the opinion of the Court.

/s Sean J. McLaughlin
 SEAN J. McLAUGHLIN
 United States District Judge

cm: All parties of record.
 U.S. Magistrate Judge Susan Paradise Baxter